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10/800,703

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EXAMINER

BOYCE, ANDRE D

ART UNIT

PAPER NUMBER

3623

NOTIFICATION DATE

DELIVERY MODE

10/08/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/800,703 | Applicant(s) CHEMINAIS ET AL. | |
| | Examiner Andre Boyce | Art Unit 3623 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This Final office action is in response to Applicant's amendment filed May 26, 2009. Claims 1, 7, 8 and 18 have been amended. Claims 1-20 are pending.

2. The previously pending objection to claim 18 has been withdrawn.

The previously pending rejections to claims 1-6 under 35 USC §101 have been maintained, as discussed below, while the rejections to claims 7-17 have been withdrawn.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 7-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Independent claims 7 and 8 recite "[a] system stored on a tangible medium," rendering the claims vague and indefinite. As amended, the claims seem to be directed towards two (2) different statutory classes, i.e., a system and tangible medium. If the claims are indeed directed towards a system, as seems to be the case, since dependent claims 9-17 recite "[t]he system of claim 8," then a physical system is required in order to make the claims statutory, including for example , a

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processor, server, interface, etc. Dependent claims 9-17 are rejected based upon the same rationale.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 1-6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In order for a method to be considered a "process" under §101, a claimed process must either: (1) be tied to a particular machine or apparatus, or (2) transform a particular article to a different state or thing. *In re Bilski*, 545 F.3d 943, 88 USPQ2d 1385 (Fed. Cir. 2008). If neither of these requirements is met by the claim, the method is not a patent eligible process under §101 and is non-statutory subject matter.

With respect to independent claim 1, the claim language recites the steps of creating a list of product types, producing at least one table, searching the at least one table, etc., however the claim language does not include the required tie or transformation. Moreover, the claim recites "[a] method implemented on a computer" in the preamble, however this is considered a nominal tie that does not satisfy the requirement, wherein a preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the

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preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hiraio*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). In addition, Applicant has amended the claim to include issuing an alert to a user, however this limitation does not include the required tie or transformation, since it is unclear how the alert is being issued (i.e., by a computer or not), and in any event issuing an alert to a user would be considered a nominal tie, since it is be deemed insignificant extra-solution activity that does not satisfy the requirement.

Claims 2-6 are rejected based upon the same rationale, wherein the claim language does not include the required tie or transformation.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grettve et al (USPN 6,591,243), in view of Lucas (USPN 6,996,538).

As per claim 1, Grettve et al disclose a method implemented on a computer of monitoring a supply between at least one supplier and at least one client, in which a client site has at least one project, and each project is associated with dated requirements for products (i.e., supply chain control system, including a supplier

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delivering goods to producers, column 3, lines 4-10), and maintaining a state of product stock and product purchases (i.e., product balance data, column 3, lines 43-45), the method comprising: creating a list of product types required for each project (i.e., customer product information, column 3, lines 43-45); producing at least one table for each product type for a sequence of time slices having a chosen time origin (i.e., determining and storing a demand time for a refilling of balance of customer storage based on customer product information, column 3, lines 56-60), the at least one table having: a first running total for each time slice from the time origin up to a time slice of interest of a first quantity associated with the dated requirements of the client site (i.e., demand quantity to be filled at the demand time, column 4, lines 31-32); and a second running total for each time slice from a time origin up to a time slice of interest, of a second quantity associated with the stock and the purchases, wherein the purchases are shifted timewise according to a delay in time (i.e., customer virtual product balance, representing the current product balance together with incoming delivery quantities, column 4, lines 40-44); searching the at least one table for times at which the second running total is less than the first running total which is indicative of a risk of at least one of a supply shortage and a necessity of initiating supply (i.e., creation of delivery suggestion information object, based upon stored information, column 4, lines 50-54).

Grettve et al does not disclose issuing an alert to a user when the risk of the at least one of a supply shortage and a necessity of initiating supply is determined.

Lucas discloses as quantity in-stock approaches a calculated or specified threshold,

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customer inventory system 130 may automatically request new supplies from server 100 (column 4, lines 13-15). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include an alert to a user when the risk of the at least one of a supply shortage and a necessity of initiating supply is determined in Grettve et al, as seen in Lucas, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 2, Grettve et al disclose periodically shifting the running totals to a new time origin when there is substantial equality between first totaled quantities and second totaled quantities (i.e., demand time is assigned a reception time before the current demand time, column 4, lines 13-15).

As per claim 3, Grettve et al disclose the creating and the producing are reiterated in view of predetermined events (i.e., reiterated based upon the suggested delivery time, column 4, lines 22-29).

As per claim 4, Grettve et al disclose at least one of modification of a project date by the at least one client (i.e., delivery time assigned a reception time before the current generated delivery time, column 4, lines 24-29), modification of an availability date by the at least one client, modification of a supply delay by the at least one supplier, modification of product quantities to be provisioned, placing of an order from the at least one client to the at least one supplier, confirmation of an order, reservation of a product from stock, and delivery of a product.

As per claim 5, Grettve et al disclose taking an order no later than a date substantially equal to a start-up date of a project, wherein the date is increased by supply availability and reduced by a supply delay (i.e., demand time is the time point when the stock has gone below the safety stock safety time* storage outflow demand, column 4, lines 8-12).

As per claim 6, Grettve et al disclose classifying requirements of the stock and the purchases by product and by effective date (i.e., demand quantity, column 4, lines 31-37); forming a running total of the requirements for each product and in each time slice in a sequence, from a time origin, to create a first table (i.e., demand quantity to be filled at the demand time, column 4, lines 31-32); and forming a running total of the stock and deliveries provided for each product, and in each time slice in the sequence, from the time origin to create a second table (i.e., customer virtual product balance, representing the current product balance together with incoming delivery quantities, column 4, lines 40-44).

Claim Rejections - 35 USC § 102

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
10. Claims 7-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Grettve et al (USPN 6,591,243).

Claims 7-13 are rejected based upon the same rationale as the rejections of claims 1 and 1-6, respectively, since they are the system claims corresponding to

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the method claims. In addition, the Examiner notes that these claims do not include any limitation similar to “issuing an alert to a user when the risk of the at least one of a supply shortage and a necessity of initiating supply is determined,” as seen in amended claim 1, hence the reason the claims are not rejected under 35 USC § 103, as claims 1-6.

As per claim 14, Grettve et al disclose the control module at least partially incorporates the state module (i.e., supplier means 1 and customer means 2, figure 1).

As per claim 15, Grettve et al disclose the monitoring module manages a list of product types involved in one or more projects (i.e., supply chain including several nodes and products, column 3, lines 4-8).

As per claim 16, Grettve et al disclose implemented in object-oriented programming and further comprising: an object class for the products; an object class for the stock; an object class for the purchases; and an object class for a table element comprising a quantity and a time (i.e., delivery suggestion object, delivery confirmation object, delivery information object, delivery order information object, etc., column 5).

As per claim 17, Grettve et al disclose an object class for each project (i.e., delivery suggestion object, delivery confirmation object, delivery information object, delivery order information object, etc., based upon each stage of the supply chain, column 5).

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Claims 18-20 are rejected based upon the same rationale as the rejections of claims 1, 7 and 17, respectively, since they are the computer readable medium claims corresponding to the method and system claims. In addition, the Examiner notes that these claims do not include any limitation similar to “issuing an alert to a user when the risk of the at least one of a supply shortage and a necessity of initiating supply is determined,” as seen in amended independent claim 1, hence the reason the claims are not rejected under 35 USC § 103, as claims 1-6.

Response to Arguments

11. In the Remarks, Applicant continues to allege, with respect to claims 1, 7, 8 and 19, that Grettve et al fails to disclose creating a list of product types required for each project, producing at least one table for each product type for a sequence of time slices having a chosen time origin, a first running total for each time slice from the time origin up to a time slice of interest of a first quantity associated with the dated requirements of the client site, a second running total for each time slice from a time origin up to a time slice of interest, of a second quantity associated with the stock and the purchases, searching the at least one table for times at which the second running total is less than the first running total which is indicative of a risk of at least one of a supply shortage and a necessity of initiating supply, and issuing an alert to a user when the risk of the at least one of a supply shortage and a necessity of initiating supply is determined.

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The Examiner respectfully disagrees. First, Grettve et al disclose a supply chain control system, including a supplier delivering goods to producers (column 3, lines 4-10), wherein obtaining an efficient logistics control and production scheduling and an equalised flow from a source to a destination in a supply chain in order to balance demand for products with plant capacity and availability of inputs (column 1, lines 50-54) is indeed a “project.”

In addition, Grettve et al indeed discloses creating a list of product types required for each project, i.e., customer product information, including customer product balance data, which inherently includes product types (column 3, lines 43-45). Moreover, Grettve et al disclose producing at least one table for each product type for a sequence of time slices having a chosen time origin (i.e., determining and storing a demand time for a refilling of balance of customer storage based on customer product information, column 3, lines 56-60, wherein the customer product information, including customer product balance data, which inherently includes product types and the demand time is the chosen time origin), the at least one table having: a first running total for each time slice from the time origin up to a time slice of interest of a first quantity associated with the dated requirements of the client site (i.e., demand quantity to be filled at the demand time, column 4, lines 31-32); and a second running total for each time slice from a time origin up to a time slice of interest, of a second quantity associated with the stock and the purchases, wherein the purchases are shifted timewise according to a delay in time (i.e., customer virtual product balance, representing the current product balance together with incoming

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delivery quantities, column 4, lines 40-44, wherein a delivery suggestion information is determined, i.e., purchases shifted timewise, based upon demand time, demand quantity data, and ultimate delivery time, column 4, lines 45-54); and searching the at least one table for times at which the second running total is less than the first running total which is indicative of a risk of at least one of a supply shortage and a necessity of initiating supply (i.e., creation of a delivery suggestion information is determined, i.e., purchases shifted timewise, based upon demand time, demand quantity data, and ultimate delivery time, column 4, lines 45-54). In addition, the Examiner notes that Lucas has been cited for disclosing issuing an alert to a user when the risk of the at least one of a supply shortage and a necessity of initiating supply is determined, as discussed in the above rejection.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and

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any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre Boyce whose telephone number is (571)272-6726. The examiner can normally be reached on 9:30-6pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andre Boyce/
Primary Examiner, Art Unit 3623
October 1, 2009